

ENVIRONMENTAL PROTECTION COMMISSION[567]

Notice of Intended Action

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)“b.”

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code sections 455B.173 and 455B.105(11), the Environmental Protection Commission hereby gives Notice of Intended Action to amend Chapter 64, “Wastewater Construction and Operation Permits,” Iowa Administrative Code.

The purpose of this rule making is to allow reissuance of NPDES General Permit No. 5 for mining and processing facilities. Iowa Code subsection 455B.173(11) allows the Commission to adopt a general permit that will cover numerous facilities to the extent they are representative of a class of facilities that can be identified and conditioned by a single permit. General Permit No. 5 was originally issued July 18, 2001, and expired July 17, 2006. This rule making will reissue General Permit No. 5 for a period of five years.

General Permit No. 5 authorizes discharge to surface water throughout the State of Iowa of wash water, materials transport water, scrubber water used for air pollution control, water used for dust suppression, mine or quarry dewatering, and noncontact cooling water used for ancillary mining equipment. Facilities covered under the permit are primarily engaged in mining or quarrying dimension stone; crushed and broken limestone; construction sand and gravel; clay, ceramic, and refractory minerals; and miscellaneous nonmetallic minerals, except fuels.

The primary pollutants of concern with discharges from mining and quarrying operations are suspended solids and pH, and the general permit includes limitations for these parameters to ensure protection of water quality. Based on information provided by the mining and quarrying community, sulfate is an additional pollutant of concern. The draft permit requires that every facility seeking coverage under the general permit submit a sample result for sulfate in its Notice of Intent (NOI). The sample result will determine whether the discharge from the facility is eligible for coverage under NPDES General Permit No. 5. Any discharge with a sulfate concentration greater than 1,514 mg/L will not be eligible for coverage under the general permit, and the facility will be required to apply for an individual permit.

Discharges to Outstanding Iowa Waters (OIW), Outstanding National Resource Waters (ONRW), and state-owned artificial and natural lakes are not authorized under General Permit No. 5. These discharges that are not authorized are in addition to discharges already excluded from coverage by the previously issued permit.

The draft permit requires that new and expanded dischargers use best management practices to reduce the discharge of pollutants. The best management practices include using settled wash water for dust suppression, maximizing settling of suspended solids, recycling materials wash water whenever practical, and using hydraulic dredging whenever practical and affordable (sand and gravel facilities only).

The amendments to Chapter 64 that accompany the draft general permit are summarized below.

1. Requirements are added to notify the DNR when there is a change in the operator of mining and processing facilities permitted by General Permit No. 5 and to specify that the operator of the facility is subject to all terms and conditions of the general permit.
2. The effective date for the reissued General Permit No. 5 is established.
3. The General Permit No. 5 annual fees are added to the fee schedule.

Any interested persons may file written comments on the proposed amendments on or before March 16, 2011. Written comments or questions regarding the proposed amendments should be directed to

Karen Lodden, NPDES Section, Iowa Department of Natural Resources, 502 E. 9th Street, Des Moines, Iowa 50319; fax (515)281-8895; or E-mail Karen.Lodden@dnr.iowa.gov.

Oral or written comments will also be accepted at a public hearing that will be held March 8, 2011, at 1 p.m. in the Fourth Floor Conference Rooms of the Wallace State Office Building, 502 East 9th Street, Des Moines, Iowa.

At the hearing, persons will be asked to give their names and addresses for the record and to confine their remarks to the subject of the amendments.

Any persons who intend to attend the public hearing and have special requirements, such as those related to hearing or mobility impairments, should contact the Department of Natural Resources to advise of special needs.

A fiscal impact summary prepared by the Legislative Services Agency pursuant to Iowa Code section 17A.4(4) will be available at <http://www.legis.state.ia.us/IAC.html> or at (515)281-5279 prior to the Administrative Rules Review Committee's review of this rule making.

These amendments are intended to implement Iowa Code chapter 455B, division III, part 1.

The following amendments are proposed.

ITEM 1. Amend rule 567—64.14(455B), catchwords, as follows:

567—64.14(455B) Transfer of title ~~or~~ and owner ~~or~~ operator address change.

ITEM 2. Adopt the following new subrules 64.14(1) and 64.14(2):

64.14(1) *Permits issued under rule 567—64.2(455B), 567—64.3(455B), or 567—64.6(455B), except 64.6(1)“a”(5).* If title to any disposal system or part thereof for which a permit has been issued is transferred, the new owners shall be subject to all terms and conditions of the permit. Whenever title to a disposal system or part thereof is changed, the department shall be notified in writing of such change within 30 days of the occurrence. No transfer of the authorization to discharge from the facility represented by the permit shall take place prior to notification of the department of the transfer of title. Whenever the address of the owner is changed, the department shall be notified in writing within 30 days of the address change. Electronic notification is not sufficient; all title transfers and address changes must be reported to the department by mail.

64.14(2) *Permits issued under 64.6(1)“a”(5).* When the operator of a facility changes, the department must be notified of the transfer within 30 days. When a discharge is covered by the general permit, the operator of record shall be subject to all terms and conditions of the permit. No transfer of the authorization to discharge from the facility represented by the permit shall take place prior to notification of the department of the transfer. Whenever the address of the operator is changed, the department shall be notified in writing within 30 days of the address change. Electronic notification is not sufficient; all transfers and address changes must be reported to the department by mail.

ITEM 3. Amend subrule 64.15(5) as follows:

64.15(5) “Discharge from Mining and Processing Facilities,” NPDES General Permit No. 5, effective ~~July 18, 2001~~ July 18, 2011.

ITEM 4. Amend subparagraph **64.16(3)“a”(5)** as follows:

(5) Discharge from Mining and Processing Facilities, NPDES General Permit No. 5. ~~Fees as established in Iowa Code section 455B.197 are to be submitted by August 30 of every year unless a multiyear fee payment was received in an earlier year. New facilities seeking General Permit No. 5 coverage shall submit fees with the Notice of Intent for coverage. Maximum coverage is five years, four years, three years, and one year, respectively. In the event a facility is no longer eligible to be covered under General Permit No. 5, the remainder of the fees previously paid by the facility shall be applied toward its individual permit fees.~~

<u>Annual Permit Fee</u>	<u>\$125 (per year)</u>
<u>or</u>	
<u>Five-year Permit Fee</u>	<u>\$500</u>
<u>Four-year Permit Fee</u>	<u>\$400</u>
<u>Three-year Permit Fee</u>	<u>\$300</u>

New facilities seeking General Permit No. 5 coverage shall submit fees with the Notice of Intent for coverage. Maximum coverage is for five years. Coverage may also be obtained for four years, three years, or one year, as shown in the fee schedule above. Existing facilities shall submit annual fees by August 30 of every year, unless a multiyear fee payment was received in an earlier year. In the event a facility is no longer eligible to be covered under General Permit No. 5, the remainder of the fees previously paid by the facility shall be applied toward its individual permit fees.